IN THE NATIONAL COMPANY LAW TRIBUNAL

COURT- 5, MUMBAI BENCH

C.P. No. 02/MB/I&B/2021

Under Section 7 of the Insolvency and Bankruptcy Code, 2016 r.w. Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

In the matter of

Prarthna Private Limited,

Office No-105, 1st Floor, Standard House 83, Maharshi Karve Road, Mumbai-400002.

....Petitioner/Financial Creditor

V/s.

Superways Enterprises Private Limited,

1 Pearl Mansion, 91 M Karve Road, Mumbai-400020, Maharashtra.

....Corporate Debtor

Order Delivered on: 26.07.2022

Coram:
Hon'ble Shri. H.V. Subba Rao, Member (Judicial)
Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

Appearances *(Via Videoconferencing)*:
For the Petitioner : Ms. Saloni Vyas, Advocate.
For the Respondent: Mr. Neerav Merchant, Advocate.

1. Prarthna Private Limited (hereinafter called **'Petitioner'**) has sought the Corporate Insolvency Resolution Process against M/s. Superways Enterprises Private Limited (hereinafter called the **'Corporate Debtor'**) on the ground that the Corporate Debtor has committed a default in the repayment of loan of Rs. 1,25,00,000/-. This Petition is filed under Section 7 of Insolvency and Bankruptcy Code, 2016 (hereafter called the **'Code'**) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

2. The Petitioner is a company incorporated under the Companies Act, 1956 and is in the business of dealing in various kinds of steel and allied products. The Corporate Debtor requested the Petitioner for financial assistance of Rs. 1,25,00,000/- in order to meet the working capital requirement.

3. On 16th October, 2020, the Petitioner provided loan of Rs. 1,25,00,000/- as inter corporate deposit inclusive of interest @ 12 p.a. The Corporate Debtor issued letters of Acceptance dated 16.10.2020, along with undated cheques, promissory note and various loan documents and the ledger of the Corporate Debtor in the books of the Petitioner and Bank statement shows transfer of Rs. 1.25 Crore.

4. The following documents categorically demonstrate the financial debt due and payable by the Corporate Debtor to the Petitioner:-
    a. Letter of Acceptance by Corporate Debtor dated 16/10/2020
    b. Ledger of the Corporate Debtor in the books of Financial Creditor.
    c. Debit Note raised, for interest due for 45 days;
    d. ICD Receipt of Rs. 1.25 Crores;
    e. Promissory Note for Rs. 1.25 Crores;
    f. Statement showing amount claimed to be in default and date of default.
    g. Undated cheques for Principle and interest.

h. Board Resolution dated 23/09/2020 of the Corporate Debtor.

5. Petitioner has issued a Demand notice dated 05.12.2020 calling upon the Corporate Debtor for repayment of the inter corporate deposit. However, the Corporate Debtor has failed to repay the same. Hence, the Petitioner was constrained to file the Petition under section 7 of the Insolvency and Bankruptcy code, 2016.

6. Heard both sides and perused the records. The Learned Counsel appearing for the Petitioner brought the attention of this Bench to the Reply filed by the Corporate Debtor clearly admitting the debt and default in this case. The Corporate Debtor in their reply virtually reported no objection for admitting the above Company Petition. In addition to the above, the Learned Counsel appearing for the Corporate Debtor once again confirmed the admission of liability in open court.

7. In view of the above admission made by the Corporate Debtor, there is no option available to this Bench except to admit the above company Petition.

8. Accordingly, the above Petition is admitted by passing the following:

ORDER

a. The above Company Petition No. (IB) 2 (MB)/2021 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against **Superways Enterprises Private Limited**.

b. This Bench hereby appoints **Mr. Hemendra Paliwal** Insolvency Professional, having Registration No: IBBI/IPA-001/IP-P-01830/2019-2020/12788, having Email-paliwal.hemendra@gmail.com, residing at A-1901 Raheja Eternity, Thakur Village, Kandivali East, Mumbai Suburban, Maharashtra, 400101 as the interim resolution professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.

c. The Financial Creditor shall deposit an amount of Rs. 5 Lakhs towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order. The IRP shall spend the above amount towards expenses and not towards fee.

d. That this Bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority; transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.

e. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.

f. That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

g. That the order of moratorium shall have effect from the date of pronouncement of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, as the case may be.

h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.

i. During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the corporate debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.

j. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.

k. Accordingly, CP 2 of 2021 is **admitted**.

l. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

SD/-	SD/-
Anuradha Sanjay Bhatia	**H.V. Subba Rao**
Member (Technical)	**Member (Judicial)**